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## **REPORT**

on Better law-making 2005: application of the principles of subsidiarity and proportionality - 13th annual report  
(2006/2279(INI))

Committee on Legal Affairs

Rapporteur: Bert Doorn

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on Better law-making 2005: application of the principles of subsidiarity and proportionality – 13th annual report (2006/2279(INI))

*The European Parliament,*

- having regard to its resolution of 26 October 2000 on the Commission reports to the European Council entitled “Better lawmaking 1998 – A shared responsibility (1998)” and “Better lawmaking 1999”<sup>1</sup>,
- having regard to its resolution of 29 November 2001 on the Commission White Paper on European governance<sup>2</sup>,
- having regard to its resolution of 8 April 2003 on the Commission reports to the European Council entitled “Better lawmaking 2000” and “Better lawmaking 2001”<sup>3</sup>,
- having regard to its resolution of 26 February 2004 on the Commission report entitled “Better Lawmaking 2002”<sup>4</sup>,
- having regard to its resolution of 9 March 2004 on the Commission communication on simplifying and improving the Community’s regulatory activity<sup>5</sup>,
- having regard to its resolution of 20 April 2004 on assessment of the impact of Community legislation and the consultation procedures<sup>6</sup>,
- having regard to the Communication from the Commission to the Council and the European Parliament entitled “Better Regulation for Growth and Jobs in the European Union” (COM(2005)0097),
- having regard to its resolution of 16 May 2006 on a strategy for the simplification of the regulatory environment<sup>7</sup>,
- having regard to its resolution of 16 May 2006 on Better lawmaking 2004: application of the principle of subsidiarity – 12th annual report<sup>8</sup>,
- having regard to its resolution of 16 May 2006 on the outcome of the screening of

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<sup>1</sup> OJ C 197, 12.7.2001, p. 433.

<sup>2</sup> OJ C 153 E, 27.6.2002, p. 314.

<sup>3</sup> OJ C 64 E, 12.3.2004, p. 135.

<sup>4</sup> OJ C 98 E, 23.4.2004, p. 155.

<sup>5</sup> OJ C 102 E, 28.4.2004, p. 512.

<sup>6</sup> OJ C 104 E, 30.4.2004, p. 146.

<sup>7</sup> OJ C 297 E, 7.12.2006, p. 136.

<sup>8</sup> OJ C 297 E, 7.12.2006, p. 128.

legislative proposals pending before the Legislator<sup>1</sup>,

- having regard to the Report from the Commission – “Better lawmaking 2005” pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality (13th report) (COM(2006)0289),
  - having regard to the Commission working document – Measuring administrative costs and reducing administrative burdens in the European Union (COM(2006)0691),
  - having regard to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Action Programme for Reducing Administrative Burdens in the European Union (COM(2007)0023),
  - having regard to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – A strategic review of Better Regulation in the European Union (COM(2006)0689),
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Employment and Social Affairs (A6-0280/2007),
- A. whereas succeeding in attaining the objective of "Better Lawmaking" constitutes one of the main priorities for the EU, as maximising the benefits of modern, rational and effective legislation whilst minimising its costs would ensure the highest level of productivity, growth and, ultimately, employment throughout Europe,
- B. whereas the principle of subsidiarity plays a vital role in establishing the authority of Community legislation and in deciding whether laws should be adopted at EU level, thus proving to be a crucial element in monitoring the separation of powers between the EU and the Member States and a useful tool for enabling Member States to assume legislative competence,
- C. whereas full respect of the principle of proportionality is a clear necessity both for European and national legislation in order to reinforce legal certainty,
- D. whereas the Court of Justice is responsible for monitoring the application of the subsidiarity and proportionality principles,
- E. whereas European legislation, being often a result of difficult political compromise, may lack clarity and Member States may be unable or unwilling to implement it correctly,
- F. whereas the reputation and the effectiveness of European legislation are affected by needless and disproportionate administrative burdens often imposed on citizens and

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<sup>1</sup> OJ C 297 E, 7.12.2006, p. 140.

businesses by EU rules,

- G. whereas a reduction in the unnecessary administrative burden of 25% could constitute a significant growth stimulus for European GDP and thus a valuable contribution to the attainment of the Lisbon objectives,
- H. whereas needless administrative burdens resulting from European legislation undermine the effectiveness and credibility of European legislation,
- I. whereas European legislation should make it easier for citizens and undertakings to benefit as much as possible from the internal market and should not burden them with high costs which could be avoided,
- J. whereas the streamlining of the *acquis communautaire* through a simplification and reduction in needless administrative burdens should not be at the expense of the legal certainty and protection provided by European legislation,
  - 1. Agrees that the regulatory environment in which businesses operate is a determinant of their competitiveness, of sustainable growth and of employment performance, and that ensuring that the regulatory environment is and remains transparent, clear, effective and generally of high quality should be an important objective of EU policy;
  - 2. Considers that bad regulatory quality in the Member States and at Community level weakens the rule of law and alienates citizens from their institutions;
  - 3. Fully supports all efforts by the Commission to promote the general strengthening of the effectiveness and enforcement of Community law through any relevant initiative;
  - 4. Welcomes the success of the web portal 'Your Voice in Europe' and invites the Commission to develop further effective ways of consulting interested parties about every aspect of a legislative proposal, including impact assessment, before launching the proposal;
  - 5. Stresses the importance of adequate and independent impact assessments, based on wide-ranging consultation of stakeholders, and calls on the Commission to provide a sufficient number of scenarios and policy options (including 'do-nothing' options if necessary) as a basis for cost-effective and sustainable solutions;
  - 6. Welcomes the Commission's commitment to enhance transparency and accountability in respect of its expert groups, as well as to establish an inventory of existing cases of EU self-regulation and co-regulation;
  - 7. Underlines the importance of Community institutions and Member States, through regional and local authorities as well as at central ministerial level, keeping a permanent watch on the application of the subsidiarity and proportionality principles;
  - 8. Welcomes the Commission action programme to measure the administrative cost for undertakings in Europe and to reduce needless and disproportionate administrative burdens by 25% by 2012;

9. Notes that the strategy for a 25% reduction refers to *needless administrative burdens* for undertakings and cannot, therefore, be equated to a deregulation, nor lead to a change in the policy objectives and level of ambition contained in Community legislation; calls on the Commission to ensure that the reduction in needless administrative burdens arising from regulations should not be at the expense of the original objectives of the regulations concerned;
10. Supports the conclusion that this must be a joint objective which can be attained only on the basis of a common endeavour by the Member States and the European institutions;
11. Emphasises, in particular, that an effective strategy for the reduction of unnecessary European administrative burdens must be implemented both by the Commission, as regards unnecessary administrative burdens arising from European regulations and directives, and by the Member States, as such burdens arising from national legislation; calls on the Commission to take the lead and not to make its actions to reduce the unnecessary administrative burden at EU level dependent on the actions undertaken by the Member States at national level to reduce unnecessary administrative burdens arising from national legislation;
12. Welcomes the identification by the Commission of 13 priority areas where the administrative costs are to be measured and unnecessary administrative burdens to be reduced as a pragmatic and effective approach but calls on the Commission, in the longer term, to also measure the administrative costs and reduce unnecessary administrative burdens outside these priority areas; considers that this could be done, inter alia, during the evaluation provided for in the relevant European regulations;
13. Is greatly concerned by the fact that the Commission Communication (COM(2007)0023) (in Annex I) proposes to limit the scope of the action programme to obligations of businesses; considers, however, that the strategy for development and employment requires the action programme to cover all administrative burdens;
14. Emphasises the importance of involving stakeholders in the identification of legislative proposals which cause unnecessary administrative burdens and the definition of measures to reduce such burdens; calls on the Commission to establish a dialogue within each Directorate-General in the Commission with European stakeholders, with regard both to the 13 priority areas and to the identification of new priority areas;
15. Stresses that the 25% reduction in unnecessary administrative burdens must realistically reflect the actual reduction in burdens; emphasises, therefore, the importance of an initial baseline measurement and of the definition of the target reduction of 25% as a net target, so that account is taken of additional unnecessary administrative burdens arising from new European regulations in the final assessment, in 2012, to establish whether the unnecessary administrative burdens in the EU have been reduced by a quarter.
16. Supports the Commission proposal for the introduction of thresholds for all information requirements, limiting them for SMEs wherever possible;
17. Emphasises that each Directorate-General in the Commission must be involved in the

reduction of unnecessary administrative burdens; stresses that each Directorate-General must be made aware of the unnecessary administrative burdens it generates through an initial baseline measurement and that a target reduction must be established on the basis of this baseline measurement for each Directorate-General;

18. Calls on the Commission to publish each year the measures adopted and the measures planned to reduce unnecessary administrative burdens in the EU, the increase in administrative burdens in the EU arising from new regulations and the envisaged net contribution of these measures, expressed as a percentage, to the attainment of the target reduction of 25% by 2012;
19. Welcomes the Commission's intention, pending the completion of the assessment of unnecessary administrative burdens in 2008, to contribute significantly to the reduction in unnecessary administrative burdens in the short term through so-called 'fast-track actions' for the most obvious unnecessary administrative burdens; calls on the Commission to identify, on the basis of the experiences of Member States which have already carried out baseline measurements, further areas in which simple reductions in unnecessary administrative burdens can be achieved and to propose target reductions;
20. Supports the Commission's efforts to chart the unnecessary administrative burdens arising from new European legislation through the integration of the Standard Cost Method (SCM) in the impact assessment procedure; considers it essential that stakeholders help to gather the information required for the use of the SCM; emphasises that the quality of the impact assessment must be controlled by the Impact Assessment Board (IAB) by means of publicly accessible opinions;
21. Emphasises that Parliament should not take into consideration any legislative proposals from the Commission that are not accompanied by an independently scrutinised impact assessment that includes an evaluation of the existence of any unnecessary administrative burden through the SCM;
22. Is of the opinion that the added value of the IAB impact assessment procedures should be evaluated before the end of 2008; calls on the Commission to develop indicators to this end, building on the existing experience of international organisations and Member States;
23. Proposes that appropriations recently released in the EU Budget for a pilot project minimizing administrative burdens be used to set up an independent panel of experts to monitor the quality of opinions delivered by the IAB by means of spot checks, notably as regards the charting of unnecessary administrative burdens, and to supervise the implementation of the European action programme to reduce administrative burdens;
24. Stresses the importance of a clear distinction between cases of obsolete, redundant or over-prescriptive information obligations and cases where, for reasons relating to the protection of public health, health, safety, quality of work and workers' rights, the environment or the Community's financial interests, information obligations remain necessary;

25. Notes the need for the Council and Parliament to adopt simplified proposals more swiftly and, therefore, emphasises the conclusion of the Inter-Institutional Agreement on Better Lawmaking of 16 December 2003<sup>1</sup> to change the working methods of the Council and Parliament, for instance through the establishment of ad-hoc structures charged specifically with the simplification of legislation;
26. Proposes that, in parallel to the action programme to reduce unnecessary administrative burdens, the Commission carry out a study in order to:
  - a) develop a methodology to quantitatively chart and assess, in addition to the administrative burden, all other burdens relating to compliance (the costs arising from the substantive obligations imposed by legislation) arising from new legislation and regulations and from amendments to existing legislation and regulations;
  - b) subsequently launch a pilot project involving stakeholders to apply a measurement methodology similar to that used with regard to compliance burdens to impact assessment;
  - c) have this methodology tested and evaluated by the IAB;
  - d) apply it as standard and to incorporate it in all impact assessments;
27. Urges the Commission and the Member States to consider cases where different parties are often required to provide the same information, and to put an end to duplication of information;
28. Calls on the Member States to extend their efforts to reduce the burden resulting from purely national legislation;
29. Also calls on the Member States to replace the production of printed information with information produced electronically and on the Internet, using smart Internet portals where possible;
30. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.



9.5.2007

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Legal Affairs

on better law-making 2005: application of the principles of subsidiarity and proportionality –  
13th annual report  
(2006/2279(INI))

Draftsman: Ole Christensen

### **SUGGESTIONS**

The Committee on Employment and Social Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

#### Concerning the Commission communication on Action Programme for Reducing Administrative Burdens in the European Union - COM(2007)0023

1. Agrees that the regulatory environment in which businesses operate is a determinant of their competitiveness, of sustainable growth and of employment performance, and that ensuring that the regulatory environment is and remains transparent, clear, effective and generally of high quality should be an important objective of EU policy;
2. Agrees with the Commission action programme target of for a reduction of unnecessary and disproportionate administrative burdens by 2012;
3. Warns, however, against the use of an absolute target of 25 % and encourages a rationalisation of the evaluation;
4. Supports the conclusion that this must be a joint objective which can be attained only on the basis of a common endeavour by the Member States and the European institutions;
5. Stresses that a further aim should be to ensure efficiency and cost-effectiveness, given the scarcity of the resources made available (EUR 20 m) for reducing the administrative burden;
6. Respects the Commission position that the proposed action programme on the reduction of information obligations (IOs) should not lead to deregulation or a change in the policy

objectives and level of ambition contained in Community legislation;

7. Is greatly concerned by the fact that the Commission communication (in Annex I) proposes to limit the scope of the action programme to obligations of businesses; considers, however, that the strategy for development and employment requires the action programme to cover all administrative burdens;
8. Notes the lack of detailed information in the communication about the reasons for choosing the priority actions listed in Annexes II and III; therefore asks the Commission to justify the selection of priority areas and specific legislation in a separate communication in order to proceed in the most transparent manner which increases the confidence in and support for the action programme;
9. Stresses the importance of a clear distinction between cases of obsolete, redundant or over-prescriptive IOs and cases where, for reasons relating to the protection of public health, health, safety, quality of work and workers' rights, the environment or the Community's financial interests, information obligations remain necessary;
10. Supports the Commission proposal for introducing thresholds for all information requirements, limiting them for SMEs wherever possible;
11. Expects that the findings of the external consultants on the measurements of the selected priority areas as listed in Annex II to the communication and the proposed suggestions for reductions are publicly accessible and capable of being debated; therefore suggests that those results are submitted for consultation to Parliament as well as to the stakeholders and in particular the social partners;
12. Urges the Commission and the Member States to consider cases where different channels are often required to provide the same information, and to put an end to duplication of information;
13. Calls on the Commission duly to substantiate any proposal for modification of Community legislation as consequence of those findings, with a detailed analysis and documentation of the findings and consultation and with a substantial impact assessment conducted in a thorough, transparent and balanced way, encompassing social, health and safety at work, economic and environmental aspects;
14. Calls on the Member States to extend their efforts to reduce the burden resulting from purely national legislation;
15. Also calls on the Member States to replace the production of printed information with information produced electronically and on the Internet, using smart Internet portals where possible.

## PROCEDURE

<b>Title</b>	Better law-making 2005: application of the principles of subsidiarity and proportionality – 13th annual report
<b>Procedure number</b>	2006/2279(INI)
<b>Committee responsible</b>	JURI
<b>Opinion by</b> Date announced in plenary	EMPL 16.11.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Ole Christensen 14.2.2007
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	11.4.2007      7.5.2007
<b>Date adopted</b>	8.5.2007
<b>Result of final vote</b>	+:            25 –:            0 0:            1
<b>Members present for the final vote</b>	Jan Andersson, Alexandru Athanasiu, Edit Bauer, Iles Braghetto, Philip Bushill-Matthews, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Luigi Cocilovo, Harald Ettl, Richard Falbr, Ilda Figueiredo, Roger Helmer, Stephen Hughes, Ona Juknevičienė, Jan Jerzy Kułakowski, Jean Lambert, Elizabeth Lynne, Csaba Óry, Marie Panayotopoulos-Cassiotou, Pier Antonio Panzeri, Elisabeth Schroedter, José Albino Silva Peneda, Gabriele Stauner
<b>Substitute(s) present for the final vote</b>	Françoise Castex, Richard Howitt, Agnes Schierhuber, Patrizia Toia
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (available in one language only)</b>	...

## PROCEDURE

<b>Title</b>	Better law-making 2005: application of the principles of subsidiarity and proportionality - 13th annual report
<b>Procedure number</b>	2006/2279(INI)
<b>Committee responsible</b> Date authorisation announced in plenary	JURI 16.11.2006
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	EMPL 16.11.2006
<b>Not delivering opinion(s)</b> Date of decision	
<b>Enhanced cooperation</b> Date announced in plenary	
<b>Rapporteur(s)</b> Date appointed	Bert Doorn 2.10.2006
<b>Previous rapporteur(s)</b>	
<b>Discussed in committee</b>	26.2.2007    10.4.2007    3.5.2007    25.6.2007
<b>Date adopted</b>	25.6.2007
<b>Result of final vote</b>	+    15 -    0 0    0
<b>Members present for the final vote</b>	Bert Doorn, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Othmar Karas, Klaus-Heiner Lehne, Manuel Medina Ortega, Hartmut Nassauer, Francesco Enrico Speroni
<b>Substitute(s) present for the final vote</b>	Sharon Bowles, Luis de Grandes Pascual, Kurt Lechner, Marie Panayotopoulos-Cassiotou, Gabriele Stauner, József Szájer, Jacques Toubon
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Date tabled</b>	13.7.2007
<b>Comments</b> (available in one language only)	